

Office of the Legislative Auditor

State of Montana



Report to the Legislature

January 1995

Financial-Compliance Audit For the Two Fiscal Years Ended June 30, 1994

PLEASE RETURN

Judicial Branch

This report contains ten recommendations for improvement in the branch's operations. Items addressed in the report include:

- ▶ Recording of District Court Reimbursement Program expenditures.
- ▶ Correcting an accounting error by transferring \$454,000 to the state General Fund from District Court fees.
- ▶ Following state purchasing requirements.
- ▶ Following state leave laws.

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FINANCIAL-COMPLIANCE AUDITS

Financial-compliance audits are conducted by the Office of the Legislative Auditor to determine if an agency's financial operations are properly conducted, the financial reports are presented fairly, and the agency has complied with applicable laws and regulations which could have a significant financial impact. In performing the audit work, the audit staff uses standards set forth by the American Institute of Certified Public Accountants and the United States General Accounting Office. Financial-compliance audit staff members hold degrees with an emphasis in accounting. Most staff members hold Certified Public Accountant (CPA) certificates.

The Single Audit Act of 1984 and OMB Circular A-128 require the auditor to issue certain financial, internal control, and compliance reports regarding the state's federal financial assistance programs, including all findings of noncompliance and questioned costs. This individual agency audit report is not intended to comply with the Single Audit Act of 1984 or OMB Circular A-128 and is therefore not intended for distribution to federal grantor agencies. The Office of the Legislative Auditor issues a statewide biennial Single Audit Report which complies with the reporting requirements listed above. The Single Audit Report for the two fiscal years ended June 30, 1993 has been issued. Copies of the Single Audit Report can be obtained by contacting:

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January 1995

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Judicial Branch for the two fiscal years ending June 30, 1994. Included in this report are recommendations concerning the return of cash to the General Fund, correction of accounting errors, and compliance with state policy and law. The branch's written response to audit recommendations is included in the audit report.

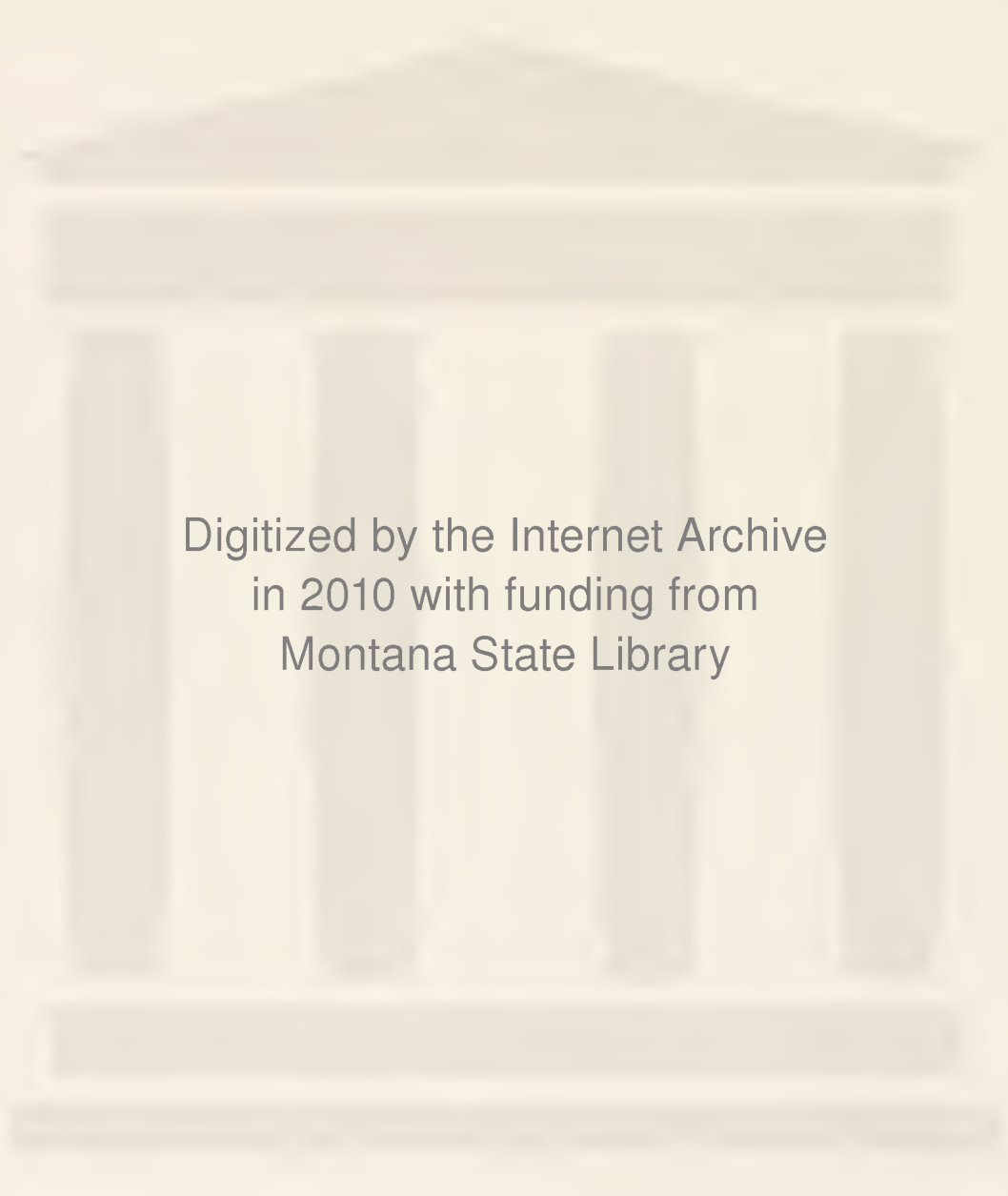
We thank the Chief Justice, the Court Administrator, the Clerk of the Supreme Court, the Law Librarian, and Judicial Branch personnel for their cooperation and assistance throughout the audit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott A. Seacat", written over a horizontal line.

Scott A. Seacat
Legislative Auditor

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Office of the Legislative Auditor

Financial-Compliance Audit

For the Two Fiscal Years Ended June 30, 1994

Judicial Branch

Members of the audit staff involved in this audit were Laurie Evans, Charles Nemec, and Lorry Parriman.

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Elected and Administrative Officials

Supreme Court

		<u>Term Expires</u>
Jean A. Turnage	Chief Justice	2001
Karla Gray	Associate Justice	1999
John C. Harrison	Associate Justice	1995*
William E. Hunt, Sr.	Associate Justice	2001
James C. Nelson	Associate Justice	1995**
Terry Triewelier	Associate Justice	1999
Fred J. Weber	Associate Justice	1997

Clerk of Supreme Court

Ed Smith	Clerk of Supreme Court	1995**
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Administrative Officials

Patrick Chenovick	Court Administrator
Judith Meadows	State Law Librarian

* Justice Harrison did not seek re-election and will retire January 1, 1995. William Leaphart was elected in the November 1994 General Election to fill the position and his term expiration will be 2003.

** James C. Nelson, Associate Justice, and Supreme Court Clerk, Ed Smith, were re-elected in the November 1994 General Election and their term expiration dates are extended to 2003 and 2001, respectively.

Summary of Recommendations

This listing below serves as a means of summarizing the recommendations contained in the report, the branch's response thereto, and a reference to the supporting comments.

<u>Recommendation #1</u>	We recommend branch administrative personnel follow state accounting policies for recording district court reimbursement expenditures.	6
	<u>Branch Response:</u> Concur. See page B-3.	
<u>Recommendation #2</u>	We recommend the branch correct the accounting error and transfer \$454,128 from the state Special Revenue Fund to the General Fund.	6
	<u>Branch Response:</u> Concur. See page B-4.	
<u>Recommendation #3</u>	We recommend the branch comply with state law by allocating its budget on SBAS by first level expenditure categories.	9
	<u>Branch Response:</u> Concur. See page B-4.	
<u>Recommendation #4</u>	We recommend the branch charge personal service expenditures to the programs that receive the benefit.	10
	<u>Branch Response:</u> Concur. See page B-4.	
<u>Recommendation #5</u>	We recommend the branch: A. Establish appropriate segregation of the responsibility for collecting, controlling, and depositing water court fee collections. <u>Branch Response:</u> Concur. See page B-5. B. Ensure all moneys collected are deposited in accordance with state law.	12
	<u>Branch Response:</u> Concur. See page B-5.	
<u>Recommendation #6</u>	We recommend the branch follow statutory purchasing requirements by seeking competitive bids for purchases over \$5,000.	14
	<u>Branch Response:</u> Partially Concur. See page B-5.	

Summary of Recommendations

Recommendation #7

We recommend the branch:

- A. Accrue Judges' Retirement System expenditures as required by state policy.

Branch Response: Concur. See page B-6.

- B. Distribute collections to the Judges' Retirement System on a timely basis. 15

Branch Response: Concur. See page B-6.

Recommendation #8

We recommend the branch accurately record expenditures consistent with state policy and, if necessary, seek training and assistance. 16

Branch Response: Concur. See page B-6.

Recommendation #9

We recommend the branch seek legislation allocating additional revenue to ensure sufficient contributions are made to the Judges' Retirement System as required by state law. 18

Branch Response: Concur. See page B-7.

Recommendation #10

We recommend the branch record the accrual and use of leave time for the Water Court Judge. 19

Branch Response: Do not concur. See page B-7.

Introduction

We performed a financial-compliance audit of the Judicial Branch (branch) for the two fiscal years ended June 30, 1994. The audit objectives were to:

1. Determine the branch's compliance with applicable laws and regulations.
2. Make recommendations for improvements in the management and internal controls of the branch.
3. Determine if the financial schedules present fairly the results of operations of the branch for the two fiscal years ended June 30, 1994.
4. Determine the implementation status of prior audit recommendations.

This report contains ten recommendations to the branch. These recommendations address areas where the branch can improve management controls, financial reporting, and compliance with laws and regulations. Other areas of concern not having a significant effect on the successful operations of the branch are not included in this report, but have been discussed with management. In accordance with section 5-13-307, MCA, we analyzed and disclosed the costs, if significant, of implementing the recommendations made in this report.

Background

The Constitution of the State of Montana vests the judicial power of the state in a Supreme Court, district courts, justice courts, and such other courts as may be provided by law. The judiciary forms the third branch of state government. The Supreme Court is the highest court of the state of Montana. The court, consisting of a chief justice and six associate justices, has appellate jurisdiction, and is a court of original jurisdiction. The chief justice is the head of the Supreme Court. The court administrator, appointed by the Supreme Court, serves as its administrative officer. The Supreme Court also appoints the Law Librarian. The librarian develops and maintains the law library collection and library services. The Supreme Court also has general supervisory control over all other courts and may make rules governing appellate procedure, practice and

Introduction

procedure for all other courts, admission to the bar, and conduct of its members. The rules of procedure are subject to disapproval by the legislature in either of the two sessions following promulgation.

Supreme Court justices and district court judges are elected to office in nonpartisan elections serving eight-year terms and six-year terms, respectively. Terms of office and the procedure for filling vacancies on the court are established in the Constitution and by statute. The legislature determines salaries for the justices and district court judges, establishes judicial districts, and provides for the number of judges in each district. Currently there are 37 district court judges in 21 judicial districts.

The Clerk of the Supreme Court is constitutionally and statutorily charged with the responsibility of providing access to the Supreme Court. The clerk manages the court's caseload, legal filings, and is custodian of the court's records. The clerk keeps the roll of attorneys and counselors at law, swears in new attorneys, and collects the annual attorney license tax.

The branch is divided into eight programs for fiscal management with a total authorized full-time equivalent (FTE) level of 92 for fiscal year 1993-94. A description of each program follows:

1. The Supreme Court Operations program accounts for the costs of operation of the Supreme Court.
2. The Boards and Commissions program accounts for expenditures for the boards and commissions established either by statute or the Supreme Court to perform various services required to support the judiciary within the state.
3. The Law Library program accounts for the operation of the State Law Library. The library is maintained for use by members of the Supreme Court, legislature, state officials, and state employees. The library is also available to members of the bar and the general public.
4. The District Court Operations program accounts for the payment of salaries and travel expenses for district court judges.

5. The Water Courts Supervision program accounts for the expenditures of the water courts.
6. The Clerk of Court program accounts for the costs of operation of the Clerk of the Supreme Court.
7. The District Court Reimbursement program accounts for district court expenses funded by the state. The program is funded from the General Fund which is offset by deposit of taxes assessed on vehicles and collected by counties and remitted to the state.
8. The House Bill 903 Automation program accounts for costs for court automation projects to improve information systems, case management systems, and the administration of justice.

Attached Agencies

Montana Medical Legal Panel

The Montana Medical Legal Panel (panel) was established by the Montana Medical Legal Panel Act, as authorized by Title 27, chapter 6, MCA. The panel is attached to the Montana Supreme Court for administrative purposes only.

Montana Chiropractic Legal Panel

The Montana Chiropractic Legal Panel (panel) was established as a state agency in January 1990 by Chapter 262, Laws of 1989. Its duties are set forth in Title 27, chapter 12, MCA. The panel is attached to the Montana Supreme Court for administrative purposes only.

Each panel reviews malpractice claims made against medical or chiropractic physicians. The panels must hear and make a decision on a claim before the claim can be filed in court. The panels determine if there is substantial evidence the stated act or omission occurred, whether the act or omission constitutes malpractice, and if there is reasonable medical probability of injury because of the act or omission.

Each panel is audited separately from the Judicial Branch. Copies of the panels' audit reports are available through the Office of the Legislative Auditor.

Prior Audit Recommendations

Prior Audit Recommendations

Our prior audit report for the two fiscal years ended June 30, 1992 contained eight recommendations. Six of the recommendations are still applicable to the branch. Of the six recommendations, the branch implemented one recommendation, partially implemented two, and did not implement three recommendations.

The five recommendations not fully implemented concern district court and judges' retirement expenditure accruals (page 5 and page 14), fund balance errors (page 6), charging personal service expenditures to the programs that receive the benefit (page 9), and compliance with operating budget requirements (page 7). Had the branch implemented the prior audit recommendations, we believe it could have reduced the number of current recommendations, and could have detected the errors which resulted in material misstatements to the Judicial Branch financial schedules.

Findings and Recommendations

Financial Schedule Errors

The following two recommendations affect the Judicial Branch financial schedules. These items are identified in the auditor's report (page A-3) as being responsible for expenditure and fund balance errors. As a result, branch operations and account balances are not fairly presented for the amounts and time periods noted.

District Court Reimbursement

At fiscal year-end 1992-93, the branch did not record \$1,267,362 of accrued expenditures for the District Court Reimbursement Program. This error caused fiscal year 1992-93 General Fund expenditures to be understated by \$1,267,362, resulting in a qualified opinion on the Judicial Branch Financial Schedules.

The branch administers the District Court Reimbursement Program. The program is funded by taxes assessed on vehicles and collected by the counties. All moneys collected by the state for this purpose are distributed in the following order:

1. The Office of the Appellate Defender and the Appellate Defender Commission must be funded first. Funds are then available to reimburse district court expenses in criminal cases.
2. Funds in excess of the specified court expenses paid by the branch are returned to the counties in the form of grants as directed by section 7-6-2352, MCA. These grants are made for district court expenditures which have exceeded revenues.

State accounting policy requires expenditures to be accrued when a valid obligation exists. Since the branch is obligated to distribute the funds to the district courts either as a reimbursement or grant the branch should have accrued expenditures to the extent revenue was accrued.

Branch personnel stated the expenditures were not accrued because the person managing the program failed to follow written operating procedures and the transaction was overlooked.

Findings and Recommendations

Recommendation #1

We recommend branch administrative personnel follow state accounting policies for recording district court reimbursement expenditures.

General Fund Accounting Errors

During the last audit, we found the branch incorrectly recorded a portion of district court fee revenue dedicated to district court judges' salaries in a state Special Revenue Fund account. We recommended the branch record all revenue associated with district court judges' salaries in the General Fund as required by section 25-1-201, MCA. Branch personnel attempted to correct the condition by transferring salary revenues from the state Special Revenue Fund to the General Fund. However, personnel created an accounting transaction which caused the reverse. Funds were transferred from the General Fund to the state Special Revenue Fund account. This error doubled the amount of General Fund moneys held in the state Special Revenue Fund account from \$227,064 to \$454,128. Consequently, the state's General Fund balance as of June 30, 1994 is understated by \$454,128.

Recommendation #2

We recommend the branch correct the accounting error and transfer \$454,128 from the state Special Revenue Fund to the General Fund.

State Compliance

Compliance with Operating Budget Requirement

According to section 17-7-138, MCA, expenditures by a state agency must be made in substantial compliance with an operating budget approved by an approving authority. Substantial compliance means that a first-level category in the operating budget may not be exceeded by more than 5 percent. Each operating budget must include expenditures for each agency program, detailed at least by first level categories. Each agency shall record its operating budget and any approved [by an approving authority] changes on the statewide budget and accounting system (SBAS). Section 17-7-102, MCA, defines "approving authority" as the Chief Justice of the Supreme Court or his designated representative for judicial branch agencies.

The branch failed to comply with these requirements as the court administrator's office did not allocate the initial budgets for the following programs on SBAS: Supreme Court Operations, Boards & Commissions, District Court Operations, Water Courts Supervision, District Court Reimbursement, and House Bill 903 Automation. A similar problem was noted during the prior audit.

The following chart shows the programs with unallocated budgets which are not in substantial compliance with the law. Branch personnel should have distributed the unallocated amounts to the various expenditure categories to correspond with approved operating budgets.

Findings and Recommendations

Table 1
Schedule of Budget vs. Actual Expenditures as Presented on the Accounting Records

Program Name	Fiscal Year 1992-93		Fiscal Year 1993-94	
	SBAS Operating Budget	Actual Expenditures	SBAS Operating Budget	Actual Expenditures
<u>Supreme Court Operations</u>				
Unallocated			\$1,763,593	\$ 0
Personal Services			0	1,200,164
Operating Expenses			0	388,923
Equipment			0	15,494
Total for Program			<u>\$1,763,593</u>	<u>\$1,604,581</u>
<u>Boards & Commissions</u>				
Unallocated	\$ 231,277	\$ 0	\$ 210,536	\$ 0
Personal Services	0	103,469	0	60,059
Operating Expenses	0	115,678	0	109,591
Equipment	0	4,344	0	14,905
Total for Program	<u>\$ 231,277</u>	<u>\$ 223,491</u>	<u>\$ 210,536</u>	<u>\$ 184,555</u>
<u>District Court Operations</u>				
Unallocated			\$3,483,417	\$ 0
Personal Services			0	3,300,890
Operating Expenses			0	121,157
Equipment			0	6,495
Total for Program			<u>\$3,483,417</u>	<u>\$3,428,542</u>
<u>Water Courts Supervision</u>				
Unallocated	\$ 535,191	\$ 0	\$ 543,984	\$ 0
Personal Services	0	410,251	0	427,790
Operating Expenses	0	112,745	0	100,213
Equipment	0	11,303	0	13,150
Total for Program	<u>\$ 535,191</u>	<u>\$ 534,299</u>	<u>\$ 543,984</u>	<u>\$ 541,153</u>
<u>District Court Reimbursement</u>				
Unallocated	\$3,390,478	\$ 0	\$3,233,727	\$ 0
Personal Services	0	28,115	0	41,324
Operating Expenses	0	26,365	0	1,830
Equipment	0	0	0	2,165
Grants	0	1,880,404	0	2,962,824
Transfers	0	0	0	25,000
Total for Program	<u>\$3,390,478</u>	<u>\$1,934,884</u>	<u>\$3,233,727</u>	<u>\$3,033,143</u>
<u>HB 903 Automation</u>				
Unallocated	\$ 267,893	\$ 0	\$ 563,799	\$ 0
Personal Services	0	65,673	0	146,624
Operating Expenses	0	10,191	0	77,282
Equipment	0	43,638	0	12,713
Grants	0	0	0	35,359
Total for Program	<u>\$ 267,893</u>	<u>\$ 119,502</u>	<u>\$ 563,799</u>	<u>\$ 271,978</u>

Source: Compiled by the Office of the Legislative Auditor from Judicial Branch records.

Findings and Recommendations

Branch personnel said they experienced turnover in accounting staff and were too busy at fiscal year-end to process the necessary budget documents to ensure compliance with state law. Branch personnel also asserted they are in substantial compliance with the operating budget approved for the agency in total by the General Appropriation Act. They reiterated the Judicial Branch has always been in substantial compliance with their approved budget, and they do not believe a problem exists with the substantial compliance section of this law.

State law directs agency personnel to ensure its operating budgets, detailed by first level categories, are accounted for correctly on the statewide budgeting and accounting system.

Recommendation #3

We recommend the branch comply with state law by allocating its budget on SBAS by first level expenditure categories.

Personal Service Expenditures

During our prior two audits we identified employees whose salaries were charged to an incorrect program. We found this to still be the case during our audit of fiscal years 1992-93 and 1993-94. Employee time was not entirely spent on duties related to the program charged. The court administrator's office accounting technician's salary was charged to the Water Courts Supervision program in the Special Revenue Fund. The accounting technician performs accounting functions for all branch programs and only a portion of this time is attributable to the water courts program. As a result, we estimate expenditures are misstated as follows:

Findings and Recommendations

Table 2

Misclassified Personal Services

<u>Program</u>	<u>Fund</u>	<u>Over (Under) Stated</u>	
		<u>Fiscal Year</u> <u>1992-93</u>	<u>Fiscal Year</u> <u>1993-94</u>
Water Courts	Special Revenue	\$ 25,000	\$ 25,000
Supreme Court Operations	General	(25,000)	(25,000)

Source: Compiled by the Office of the Legislative Auditor from Judicial Branch records.

Branch personnel stated they charged the salary to an inappropriate program because the full-time equivalent (FTE) positions were available and funded in that program. The current funding practice reduces the state General Fund expenditures by charging expenditures to the Special Revenue Fund. We recommended in our last two audit reports the branch work with the legislature to obtain authority to charge personal service expenditures to the programs that receive the benefit. Since the branch has other employees who perform duties for the Water Courts and Supreme Court Operations programs, it could allocate a portion of these employee salaries to those programs. It could then properly charge the accounting technician's salary to the programs that benefit from the services.

Recommendation #4

We recommend the branch charge personal service expenditures to the programs that receive the benefit.

Water Court Cash Management Procedures

The Montana Water Court, located in Bozeman, is a special jurisdiction court; the Chief Water Judge is appointed by the Chief Justice of the Montana Supreme Court. During the audit we found water court cash management procedures do not comply with state law and policy.

The water court charges the public for photocopying services, transcript copies, and summaries of significant water court cases. Deposits amounted to \$6,618 during fiscal year 1992-93 and \$5,563 during fiscal year 1993-94. Sales are managed by the Clerk of the Water Court who does not keep a receipt log of sales transactions. For sales on account, the clerk prepares and sends out the billings for water court charges, receives the cash payments from those billings, and keeps the accounts receivable system for the billings. Once payment is received, billing records are destroyed. The clerk also accumulates and sends fee collections to Helena.

This concentration of duties in one position results in one person having the opportunity to perpetuate and conceal theft of cash receipts. These responsibilities are not consistent with the Montana Operations Manual procedures for handling collections (2-1210) which state; It is the responsibility of each agency's management to establish and maintain a system of internal controls over collections and deposits. No one person should perform incompatible functions. These functional responsibilities should be separated.

The water court sends cash and checks to Helena every two weeks for deposit. This is not consistent with state laws and policies. Section 17-6-105, MCA, states all money received by a state agency or institution must be deposited either with the state treasurer or in a depository approved by the state treasurer each day when the accumulated amount of coin and currency requiring deposit exceeds \$100 or total collections exceed \$500. All money collected must be deposited at least weekly.

Sending checks and cash through the mail to Helena can be avoided by depositing funds at a local bank approved by the state treasury bureau.

Findings and Recommendations

Water court personnel do not adequately monitor fees collected by the court. There is no record maintained of the amounts collected in Bozeman or sent to Helena. Personnel do not review SBAS to reconcile amounts sent to Helena with amounts deposited at the treasury bureau.

No tracking system was set up for the revenue collected at the court because the Water Court Judge believed the time taken to track the moneys collected was more costly than the amount of money that could be lost. Court personnel were unaware the functions performed were not compatible and depositing practices were not in compliance with state law.

The water court increases the potential for theft or loss of state assets by not having a control system that ensures state collections are properly accounted for and deposited intact with the state treasurer as required by state law and policy.

Recommendation #5

We recommend the branch:

- A. Establish appropriate segregation of the responsibility for collecting, controlling, and depositing water court fee collections.**
- B. Ensure all moneys collected are deposited in accordance with state law.**

Compliance With Purchasing Requirements

The water court contracted with Montana State University (MSU) to produce a video explaining the court procedures for defendants and plaintiffs. The court did not advertise or bid the \$30,000 contract. This is inconsistent with state purchasing laws. Title 18, chapters 4 and 7, MCA, establish statutory parameters for purchasing supplies, equipment, certain services, and printing. State law gives the Department of Administration authority to adopt rules consistent with state law governing

Findings and Recommendations

procurement of any and all supplies and services for the state. The Department of Administration has delegated limited purchasing authority to state agencies. Agencies may purchase certain items estimated to cost less than \$5,000. Items costing more than the \$5,000 must be put out for bid by the Department of Administration's Purchasing Bureau.

The branch stated they selected MSU for the contract because they believed it was part of the state system. Because both MSU and the water court are state organizations, it is the Water Court Judge's understanding that bidding is not necessary between state entities.

In addition, the Supreme Court Administrator's Office personnel made two computer equipment purchases amounting to \$6,495 and \$8,290. Personnel did not go through Department of Administration, State Purchasing Bureau, for these equipment purchases. The branch is responsible for submitting requisitions and specifications to the purchasing bureau for purchases which exceed the \$5,000 in order to solicit bids.

Personnel believe the branch is exempt from the state purchasing requirements because those requirements apply to executive branch agencies, not to the Judicial Branch. Therefore, the branch is not obligated to follow purchasing procedures.

The Judicial Branch is not exempt from the Montana Procurement Act because section 18-4-132(2), MCA, states: "This chapter applies to expenditure of public funds irrespective of their source, . . . by this state acting through a governmental body, as defined in 18-4-123, under any contract . . ." The governmental body as defined by section 18-4-123(11), MCA, includes the judicial branch.

Findings and Recommendations

Recommendation #6

We recommend the branch follow statutory purchasing requirements by seeking competitive bids for purchases over \$5,000.

Accounting Issues

Judges' Retirement Expenditure Accruals

A percentage of certain district court filing fees are collected for the purpose of funding judges' retirement. These fees are transmitted to the state treasurer's office through the monthly county collections process. The supreme court administrator's office is responsible for distributing these collections to the Public Employees Retirement Division (PERD) which administers the Judges' Retirement System (JRS).

The fees are collected monthly, so the distributions, recorded as expenditures from Judicial Branch to PERD, are usually made monthly within a reasonable time after the amounts collected and transmitted to the state by the counties have been recorded on the state's accounting system.

The following two items relate to the recording and distribution of the JRS collections by the Judicial Branch:

1. The state treasurer estimates and records judges' retirement revenue for the month of June. Supreme Court Administrator's Office personnel do not make a matching expenditure accrual for the June JRS revenue. Personnel record the expenditures in the following fiscal year as a prior year adjustment.

State accounting policy indicates expenditures should be recorded in the fiscal year when the branch recognizes an obligation to make payment. Since the amount of revenue is estimated and is available, the branch should record a matching expenditure accrual to record the distribution of judges' retirement funds in the correct fiscal year.

Findings and Recommendations

As a result of not recording the expenditure, Judges' Retirement Special Revenue Fund expenditures are understated by \$48,064 in fiscal year 1991-92 and \$45,068 in fiscal year 1992-93. This error was discussed in the prior audit report. Branch personnel indicated they need to change their year-end procedures to include a reminder to record the June expenditure.

2. The second issue we found relates to the timely distribution of the amounts collected for the JRS. The branch was slow to distribute the June 1992 and June 1993 collections to PERD which manages Judges' Retirement System. The June 1992 amount, \$48,064, was not distributed until November 3, 1992. The June 1993 amount, \$45,068, was not distributed until March 1, 1994. The three month lag in 1992 and seven month lag in 1994 represent lost interest earnings to the JRS of \$430 and \$941, respectively.

Recommendation #7

We recommend the branch:

- A. **Accrue Judges' Retirement System expenditures as required by state policy.**
- B. **Distribute collections to the Judges' Retirement System on a timely basis.**

Proper Recording of Expenditures

Judicial Branch personnel use expenditure abatements (cancelling expenditures) to incorrectly reduce expenditures previously recorded on the state's accounting system. State accounting policy restricts the use of expenditure abatements to the following two purposes:

1. Recording reimbursements for non-routine and non-recurring expenditures made for an outside party; or
2. Receiving a refund of overpayments made to an outside party for amounts previously recorded as expenditures.

Findings and Recommendations

We found incorrect abatements moving \$8,985 of expenditures in the Clerk of Court program to the following unrelated expenditure classifications:

1. Moved \$4,473 of equipment expenditures to salaries, benefits, building and ground maintenance, and storage rental expenditure classifications.
2. Moved \$3,604 of postage expenditures and transferred the amount to consulting services, storage rental, and debt service expenditure classifications.
3. Moved \$908 of dues, photocopy and travel expenditures to consulting services expenditure classification.

The expenditures as originally recorded on the state's accounting system were accurate reflections of how the money was spent. The expenditure abatements do not reflect the true costs associated with clerk of court operations. Branch personnel indicated they were attempting to free up consulting/professional services authority by reclassifying these expenditures.

Prior audit reports have recommended the branch seek accounting training for personnel or seek Department of Administration Accounting Bureau assistance. Training or assistance would help branch staff to recognize and avoid account errors such as the one described above.

Recommendation #8

We recommend the branch accurately record expenditures consistent with state policy and, if necessary, seek training and assistance.

Montana Judges' Retirement System

Supreme Court justices and district court judges are members of the Montana Judges' Retirement System (JRS). The retirement system, established in 1967, has an active membership of 43 and 32 members who receive benefits at fiscal year end 1992-93. Section 19-5-404, MCA, requires the branch to contribute to JRS district court fees collected under section 25-1-201, MCA, in an amount equal to 34.71 percent of salaries paid to district judges and Supreme Court justices.

The branch remits all district court fees collected to JRS. However, branch personnel said the fees collected are not enough to pay the percentages required by law.

Table 3 illustrates the difference between actual fees collected and remitted to JRS and the amount required by statute during the audit period.

Table 3		
Montana Judges' Retirement System Retirement Contributions		
	Fiscal Year 1992-93	Fiscal Year 1993-94
Contributions		
Required per Statute	\$967,533	\$967,533
Collected and Remitted	595,893	603,935
Contribution Shortage	<u>\$371,640</u>	<u>\$363,598</u>
Source:	Compiled by the Office of the Legislative Auditor from Judicial Branch records.	

Branch personnel have been tracking the contribution shortfall and according to branch records, the shortfall as of June 30, 1994 is approximately \$1,900,000.

The revenue source pledged under law is not sufficient to meet the requirements of the statute and has resulted in the JRS not being actuarially sound. The Public Employees Retirement Board's 1993 Annual Financial Report contains the following information about the effect of the shortfall.

Findings and Recommendations

"District court fees have not generated the revenue for the JRS as required by section 19-5-404, MCA. Legislation was passed to increase the percent of salaries paid from district court fees from 31 percent to 34.71 percent effective July 1, 1991, but has not decreased this shortfall, since the actual district court fees remitted during fiscal year 1993 provided only 22.06 percent of active judges salaries, a shortfall of 12.65 percent. At the present time, the JRS is able to meet all current obligations, but the continued funding shortfall has prohibited the actuary from certifying the actuarial soundness of this system."

Constitutional amendment number 25, passed by voters in the November 8, 1994 General Election, amends Article VIII section 13 of the Montana Constitution to require public retirement systems to be funded on an actuarially sound basis. In a fiscal note prepared for Constitutional Amendment 25, the Office of Budget and Program Planning estimated the JRS would need an infusion of \$1 million to make the system actuarially sound.

The preceding information indicates a need for the Judicial Branch to seek solutions for the funding shortfall.

Recommendation #9

We recommend the branch seek legislation allocating additional revenue to ensure sufficient contributions are made to the Judges' Retirement System as required by state law.

Administration of Leave Laws & Policy

The following issue involves the branch's administration of leave law and policy.

The branch does not record vacation and sick leave for the water court judge. The Supreme Court Administrator's Office does not record the leave because the water court judge is considered to be a position similar to the elected Supreme Court justices and

Findings and Recommendations

elected district court judges. Elected judges are salaried and do not have leave time available for use or accrual.

However, the Montana Water Court Judge is an appointed position under section 3-7-201, MCA, not an elected position and should be eligible for sick and vacation leave use and accrual based on state law. The current water court judge would have accumulated approximately 531 hours of annual leave and 424 hours of sick leave. These amounts do not take into consideration any use of annual or sick leave since the branch does not track any leave time taken for any judges.

Recommendation #10

We recommend the branch record the accrual and use of leave time for the Water Court Judge.

Independent Auditor's Report & Branch Financial Schedules

Summary of Independent Auditor's Report

Summary of Independent Auditor's Report

The financial schedules are prepared from the Statewide Budgeting and Accounting System without adjustments for errors noted during the audit.

As a result of audit work, we determined the Schedule of Budgeted Program Expenditures By Object & Fund - Budget & Actual for Fiscal Year 1992-93 does not contain \$1,267,362 of District Court Reimbursement expenditures classified as Grants from State Sources.

The Schedule of Changes in Fund Balances for the Two Fiscal Years Ended June 30, 1994 contains errors in the amounts presented as Special Revenue Funds - Fund Balances. The July 1, 1992 balance is overstated by \$227,064 and the June 30, 1994 balance is overstated by \$454,128.

The differences between the audited amounts and the amounts presented in the Judicial Branch schedules mean the information does not fairly present branch operations and account balances for the items identified.

Office of the Legislative Auditor



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LEGISLATIVE AUDITOR:
SCOTT A. SEACAT

LEGAL COUNSEL:
JOHN W. NORTHEY

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying financial schedules of the Judicial Branch for each of the two fiscal years ended June 30, 1993 and 1994, as shown on pages A-5 through A-12. The information contained in these financial schedules is the responsibility of Judicial Branch management. Our responsibility is to express an opinion on these financial schedules based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosure in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, the financial schedules are presented on a comprehensive basis of accounting other than generally accepted accounting principles. The schedules are not intended to be a complete presentation and disclosure of the branch's assets and liabilities.

The Judicial Branch did not accrue District Court Reimbursement Expenditures in fiscal year 1992-93. As a result, expenditures in the General Fund are understated by \$1,267,362.

The branch did not transfer moneys from the Judges' Retirement Special Revenue Fund to the General Fund as required by law. As a result, the July 1, 1992 Judges' Retirement Special Revenue Fund balance is overstated by \$227,064 and the June 30, 1994 fund balance is overstated by \$454,128.

In our opinion, except for the effects of the matters discussed in paragraphs four and five, the schedules referred to in the first paragraph present fairly the results of operations and changes in fund balances of the Judicial Branch for the two fiscal years ended June 30, 1993 and 1994, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

A handwritten signature in cursive script that reads "James Gillett".

James Gillett, CPA
Deputy Legislative Auditor

August 19, 1994

JUDICIAL BRANCH
SCHEDULE OF CHANGES IN FUND BALANCES
FOR THE TWO FISCAL YEARS ENDED JUNE 30, 1994

	<u>General Fund</u>	<u>Special Revenue Funds</u>
FUND BALANCE: July 1, 1992	\$ <u>0</u>	\$ <u>258,220</u>
ADDITIONS		
<u>Fiscal Year 1992-93</u>		
Budgeted Revenue	3,737,086 ₃	639,973
Nonbudgeted Revenue & Transfers In	453,659 ₃	
Support From State of Montana	3,484,671	
Cash Transfers In		503,089 ²
Prior Year Revenue Adjustments		221,466
 <u>Fiscal Year 1993-94</u>		
Budgeted Revenue	3,948,976 ₃	589,389
Nonbudgeted Revenue & Transfers In	523,696 ₃	
Prior Year Revenue Adjustments	42,697	
Direct Entries to Fund Balance	614	
Support From State of Montana	5,430,607	
Cash Transfers In		551,646 ²
Total Additions	<u>17,622,006</u>	<u>2,505,563</u>
 REDUCTIONS		
<u>Fiscal Year 1992-93</u>		
Budgeted Expenditures	7,461,800 ¹	1,096,560
Prior Year Expenditure Adjustments	7,799	48,064
Prior Year Revenue Adjustments	205,819	
 <u>Fiscal Year 1993-94</u>		
Budgeted Expenditures & Transfers Out	8,674,095 ₁	1,078,175
Prior Year Expenditure Adjustments	1,272,041 ¹	44,467
Nonbudgeted Prior Year Expenditure Adj.	452	
Prior Year Revenue Adjustments		31,043
Total Reductions	<u>17,622,006</u>	<u>2,298,309</u>
 FUND BALANCE: June 30, 1994	\$ <u><u>0</u></u>	\$ <u><u>465,474</u></u>

¹ See note 6 on page A-11.

² See note 5 on page A-11.

³ See note 8 on page A-12.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

JUDICIAL BRANCH
SCHEDULE OF BUDGETED REVENUE - ESTIMATE & ACTUAL
FOR THE TWO FISCAL YEARS ENDED JUNE 30, 1994

	<u>Licenses and Permits</u>	<u>Charges For Services</u>	<u>Federal</u>	<u>Total</u>
<u>Fiscal Year 1992-93</u>				
GENERAL FUND				
Estimated Revenue	\$3,128,605	\$ 336,500		\$3,465,105
Actual Revenue	<u>3,362,990</u>	<u>374,096</u>		<u>3,737,086</u>
Collections Over (Under) Estimate	<u>\$ 234,385</u>	<u>\$ 37,596</u>		<u>\$ 271,981</u>
SPECIAL REVENUE FUNDS				
Estimated Revenue		\$ 772,000	\$ 50,000	\$ 822,000
Actual Revenue		<u>608,171</u>	<u>31,802</u>	<u>639,973</u>
Collections Over (Under) Estimate		<u>\$ (163,829)</u>	<u>\$ (18,198)</u>	<u>\$ (182,027)</u>
<u>Fiscal Year 1993-94</u>				
GENERAL FUND				
Estimated Revenue	\$3,433,000	\$ 181,200		\$3,614,200
Actual Revenue	<u>3,783,711</u>	<u>165,265</u>		<u>3,948,976</u>
Collections Over (Under) Estimate	<u>\$ 350,711</u>	<u>\$ (15,935)</u>		<u>\$ 334,776</u>
SPECIAL REVENUE FUNDS				
Estimated Revenue		\$1,018,500	\$ 75,000 ¹	\$1,093,500
Actual Revenue		<u>589,389</u>		<u>589,389</u>
Collections Over (Under) Estimate		<u>\$ (429,111)</u>	<u>\$ (75,000)</u>	<u>\$ (504,111)</u>

¹ See note 7 on page A-11.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

JUDICIAL BRANCH
SCHEDULE OF BUDGETED PROGRAM EXPENDITURES & TRANSFERS OUT BY OBJECT & FUND - BUDGET & ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1994

	Supreme Court Operations	Boards and Commissions	Law Library	District Court Operations	Water Courts Supervision	Clerk of Court	District Court Reimbursement	House Bill 903 Automation	Total
PERSONAL SERVICES									
Salaries	\$1,001,763	\$ 47,807	\$164,730	\$2,327,648	\$327,021	\$118,486	\$ 32,990	\$117,386	\$4,137,831
Other Compensation				9,706					9,706
Employee Benefits	198,401	12,252	42,897	963,536	100,769	30,283	8,334	29,238	1,385,710
Total	<u>1,200,164</u>	<u>60,059</u>	<u>207,627</u>	<u>3,300,890</u>	<u>427,790</u>	<u>148,769</u>	<u>41,324</u>	<u>146,624</u>	<u>5,533,247</u>
OPERATING EXPENSES									
Other Services	52,412	59,786	40,258	7,321	9,288	(1,823)		60,266	227,508
Supplies & Materials	44,541	7,066	11,859	4,732	8,719	3,635	709	3,030	84,291
Communications	16,088	7,610	10,167	1,197	28,878	16,753	962	3,511	85,166
Travel	20,734	31,355	4,053	90,372	2,843	2,186	97	8,736	160,376
Rent	172,260	3,283			39,516	725		200	215,984
Repair & Maintenance	14,979	177	5,797	5,164	2,906	3,455		831	33,309
Other Expenses	67,910	314	8,502	12,372	8,063	1,070	62	707	99,000
Total	<u>388,924</u>	<u>109,591</u>	<u>80,636</u>	<u>121,158</u>	<u>100,213</u>	<u>26,001</u>	<u>1,830</u>	<u>77,281</u>	<u>905,634</u>
EQUIPMENT AND INTANGIBLE ASSETS									
Equipment	10,619	3,217	220,290		2,506	4,473		694	241,799
Intangible Assets	4,874	11,688	523	6,494	10,644		2,165	12,019	48,407
Total	<u>15,493</u>	<u>14,905</u>	<u>220,813</u>	<u>6,494</u>	<u>13,150</u>	<u>4,473</u>	<u>2,165</u>	<u>12,713</u>	<u>290,206</u>
GRANTS									
From State Sources							2,962,824	35,359	2,998,183
Total							<u>2,962,824</u>	<u>35,359</u>	<u>2,998,183</u>
TRANSFERS									
Accounting Entity Transfers							25,000		25,000
Total							<u>25,000</u>		<u>25,000</u>
TOTAL PROGRAM EXPENDITURES	<u>\$1,604,581</u>	<u>\$184,555</u>	<u>\$509,076</u>	<u>\$3,428,542</u>	<u>\$541,153</u>	<u>\$179,243</u>	<u>\$3,033,143</u>	<u>\$271,977</u>	<u>\$9,752,270</u>
GENERAL FUND									
Budgeted	\$1,688,593	\$210,536	\$509,082	\$2,903,417		\$179,458	\$3,233,727	\$563,799	\$9,288,612
Actual	1,604,581	184,555	509,076	2,891,520		179,243	3,033,143	271,977	8,674,095
Unspent Budget Authority	<u>\$ 84,012</u>	<u>\$ 25,981</u>	<u>\$ 6</u>	<u>\$ 11,897</u>		<u>\$ 215</u>	<u>\$ 200,584</u>	<u>\$291,822</u>	<u>\$ 614,517</u>
SPECIAL REVENUE FUNDS									
Budgeted	\$ 75,000 ¹			\$ 580,000	\$543,984				\$1,198,984
Actual				537,022	541,153				1,078,175
Unspent Budget Authority	<u>\$ 75,000</u>			<u>\$ 42,978</u>	<u>\$ 2,831</u>				<u>\$ 120,809</u>

¹ See note 7 on page A-11.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

JUDICIAL BRANCH
SCHEDULE OF BUDGETED PROGRAM EXPENDITURES BY OBJECT & FUND - BUDGET & ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 1993

	Supreme Court Operations	Boards and Commissions	Law Library	District Court Operations	Water Courts Supervision	Clerk of Court	District Court Reimbursement	House Bill 903 Automation	Total
PERSONAL SERVICES									
Salaries	\$ 995,213	\$ 83,833	\$167,303	\$2,247,796	\$317,860	\$118,160	\$ 22,402	\$ 52,784	\$4,005,351
Other Compensation				9,592					9,592
Employee Benefits	190,136	19,636	41,656	925,454	92,392	27,263	5,713	12,889	1,315,139
Total	<u>1,185,349</u>	<u>103,469</u>	<u>208,959</u>	<u>3,182,842</u>	<u>410,252</u>	<u>145,423</u>	<u>28,115</u>	<u>65,673</u>	<u>5,330,082</u>
OPERATING EXPENSES									
Other Services	82,196	53,203	197,102	5,781	25,099	1,655	24,060	2,677	391,773
Supplies & Materials	31,085	18,318	15,485	21,260	6,775	2,612	592	6,031	102,158
Communications	16,257	8,472	10,415	1,160	23,688	11,201	1,584	553	73,330
Travel	22,824	32,031	2,347	109,560	3,164	2,534	51	931	173,442
Rent	94,222	3,593	74,220	400	37,359	341			210,135
Repair & Maintenance	13,193		6,085	5,957	7,057	3,563	17		35,872
Other Expenses	41,094	61	7,304	31,257	7,909	(60)	62		87,627
Goods Purchased For Resale					1,695				1,695
Total	<u>300,871</u>	<u>115,678</u>	<u>312,958</u>	<u>175,375</u>	<u>112,746</u>	<u>21,846</u>	<u>26,366</u>	<u>10,192</u>	<u>1,076,032</u>
EQUIPMENT AND INTANGIBLE ASSETS									
Equipment	11,759	4,344	189,937		11,302				217,342
Intangible Assets	10,863								10,863
Total	<u>22,622</u>	<u>4,344</u>	<u>189,937</u>		<u>11,302</u>				<u>228,205</u>
GRANTS									
From State Sources							1,880,403 ¹	43,638	1,924,041
Total							<u>1,880,403¹</u>	<u>43,638</u>	<u>1,924,041</u>
TOTAL PROGRAM EXPENDITURES	<u>\$1,508,842</u>	<u>\$223,491</u>	<u>\$711,854</u>	<u>\$3,358,217</u>	<u>\$534,300</u>	<u>\$167,269</u>	<u>\$1,934,884</u>	<u>\$119,503</u>	<u>\$8,558,360</u>
GENERAL FUND									
Budgeted	\$1,513,714	\$231,277	\$724,058	\$2,846,518		\$167,708	\$3,390,478 ¹	\$ 83,966	\$8,957,719
Actual	<u>1,508,842</u>	<u>223,491</u>	<u>711,854</u>	<u>2,831,905</u>		<u>167,269</u>	<u>1,934,884¹</u>	<u>83,555</u>	<u>7,461,800</u>
Unspent Budget Authority	<u>\$ 4,872</u>	<u>\$ 7,786</u>	<u>\$ 12,204</u>	<u>\$ 14,613</u>		<u>\$ 439</u>	<u>\$1,455,594</u>	<u>\$ 411</u>	<u>\$1,495,919</u>
SPECIAL REVENUE FUNDS									
Budgeted				\$ 580,000	\$535,191			\$183,927	\$1,299,118
Actual				<u>526,312</u>	<u>534,300</u>			<u>35,948</u>	<u>1,096,560</u>
Unspent Budget Authority				<u>\$ 53,688</u>	<u>\$ 891</u>			<u>\$147,979</u>	<u>\$ 202,558</u>

¹ See note 6 on page A-11.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-9.

Notes to the Financial Schedules

For the Two Fiscal Years Ended June 30, 1994

1. **Summary of Significant Accounting Policies**

Basis of Accounting

The Judicial Branch uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental Funds. In applying the modified accrual basis, the branch records:

Revenues when it receives cash or when receipts are measurable and available to pay current period liabilities.

Expenditures for valid obligations when the branch incurs the related liability and it is measurable.

Expenditures may include entire budgeted service contracts even though the branch received the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end. State accounting policy also requires the branch to record the cost of employees' annual leave and sick leave when used or paid.

Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the Statewide Budgeting and Accounting System without adjustment. Accounts are organized in funds according to state law. The branch uses the following funds:

Governmental Funds

General Fund - to account for all financial resources except those required to be accounted for in another fund.

Special Revenue Funds - to account for proceeds of specific revenue sources legally restricted to expenditures for specific purposes. The branch's Special Revenue Funds include judges' retirement and water development in fiscal years 1992-93 and 1993-94 and federal grants in fiscal year 1992-93.

Notes to the Financial Schedules

2. Annual and Sick Leave

Employees at the branch accumulate both annual and sick leave. The branch pays employees for 100 percent of unused annual and 25 percent of unused sick leave credits upon termination. Accumulated unpaid liabilities for annual and sick leave are not reflected in the accompanying financial schedules. The branch absorbs expenditures for termination pay in its annual operational costs. At June 30, 1993 and at June 30, 1994, the branch had a liability of \$77,180 and \$114,362, respectively. Supreme Court Justices and District Court Judges (44 FTE) are elected officials who do not accumulate annual and sick leave. The reported amounts are recorded for branch employees.

3. Pension Plan

Employees are covered by the Montana Public Employees' Retirement System (PERS) or the Montana Judges' Retirement System (JRS). The branch's contribution to these plans are shown below:

	Fiscal Year 1992-93	Fiscal Year 1993-94
PERS	\$ 64,799	\$ 69,922
JRS	<u>754,397</u>	<u>772,942</u>
Total	<u>\$819,196</u>	<u>\$842,864</u>

The actuary for the state's retirement systems reports an unfunded pension benefit obligation of \$4,765,322 at June 30, 1994 for JRS. The "pension benefit obligation" is a standardized disclosure measure of the present value of pension benefits, adjusted for the effects of projected salary increases, estimated to be payable in the future as a result of employee service to date. The measure, which is the actuarial present value of credit projected benefits, is intended to help users assess the system's funding status on a going-concern basis, assess progress made in accumulating sufficient assets to pay benefits when due, and make comparisons among employers. The JRS unfunded pension benefit obligation amount means the system is currently deficient by the amount reported above in meeting future estimated payments to retirees.

- **4. General Fund Balance**

The General Fund is a statewide fund. Agencies do not have a separate General Fund since their only authority is to pay obligations from the statewide General Fund within their appropriation limits. Thus, on an agency's schedules, the General Fund beginning and ending fund balance will always be zero.
- **5. Cash Transfers**

Cash Transfers of \$503,089 and \$551,646 in fiscal years 1992-93 and 1993-94, respectively, occurred in the Water Development Special Revenue Fund. This fund accounts for the operation of the state water court. The Judicial Branch shares the accounting entity with the Department of Natural Resources and Conservation (DNRC). DNRC records the revenue and the branch records the expenditures. Because of combined use of the accounting entity, cash transfers are necessary to return the cash balance to zero at year-end.
- **6. General Fund Budgeted Expenditures**

The Judicial Branch did not record \$1,267,362 of District Court Reimbursement expenditures at the end of fiscal year 1992-93. These expenditures are recorded in fiscal year 1993-94 as an adjustment to prior year expenditures.
- **7. Unspent Federal Budget Authority**

The Judiciary is authorized by Chapter 610, Laws of 1993, to establish a Foster Care Review Panel pilot program. The sponsoring legislation provides that the court shall adopt rules and procedures. The purpose of the program is to create local review panels to provide recommendations to the courts about managing and placement of foster care children.

When the program was budgeted, the branch anticipated receiving during fiscal year 1993-94 \$75,000 of federal grant funds. These funds are not available. Therefore, the Judiciary program budget includes \$75,000 of unspent Special Revenue Fund budget authority and estimated federal revenue for fiscal year 1993-94.

Notes to the Financial Schedules

8.

Nonbudgeted General Fund Revenue

Certain district court fees collected by the county for various licenses, court filings, and judgments are directed to the general fund to pay for district court judges' salaries. This revenue is classified as nonbudgeted.

Branch Response

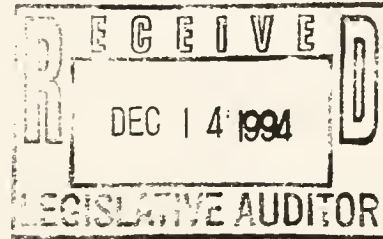
The Supreme Court of Montana
Office of the Court Administrator



PATRICK A. CHENOVICK
Court Administrator

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December 12, 1994



Mr. Scott Seacat, Legislative Auditor
Office of the Legislative Auditor
State Capitol
Helena, Montana 59620

Dear Mr. Seacat:

This is our response to the final audit on the Judicial Branch for the two fiscal years ending June 30, 1994. I have highlighted your recommendations and provided a Branch response to each recommendation.

Recommendation #1

We recommend branch administrative personnel follow state accounting policies for recording district court reimbursement expenditures.

RESPONSE -- WE CONCUR.

The District Court Reimbursement Program has operating procedures consistent with state accounting policy. Current procedures require expenditures to be accrued when a valid obligation exists. The Program Specialist failed to accrue \$1,267,362 in projected end-of-the-year reimbursements and grants resulting in the General Fund expenditures to be understated.

Corrective action has been taken by the Branch resulting in proper accrual of expenditures for fiscal year-end 1993-94, as well as fiscal year-end 1994-95.

The corrective actions includes a double check by the Program Specialist at June month end and on July 10 of each fiscal year end period.

Recommendation #2

We recommend the branch correct the accounting error and transfer \$454,128 from the state Special Revenue Fund to the General Fund.

RESPONSE -- WE CONCUR.

Transfer of \$454,128 from the state Special Revenue Account for judges' salaries to the General Fund has been completed, a copy of the correcting document has been furnished to the lead auditor for their working papers. We have reviewed SBAS 411 report and confirmed that the transactions was properly performed.

Recommendation #3

We recommend the branch comply with state law by allocating its budget on SBAS by first level expenditure categories.

RESPONSE -- WE CONCUR.

The Branch has always been in "substantial compliance" with an operating budget approved by the approving authority. Our previous audit included this recommendation and we had envisioned that we would incorporate a flagging system into our current monthly budget monitoring system in order to comply with this requirement, but due to staff turnover and more than usual legislative activity, this was not accomplished. We will place a high priority on this recommendation.

Recommendation #4

We recommend the branch charge personal service expenditures to the programs that receive the benefit.

RESPONSE -- WE CONCUR.

The Branch has attempted to comply with prior audit recommendations regarding employee salaries. Salaries of employees working in multiple programs are proportionably allocated to those programs. The Branch will continue to follow audit recommendations and make salary allocations when appropriate.

Recommendation #5

We recommend the branch:

- A. Establish appropriate segregation of the responsibility for collecting, controlling, and depositing water court fee collections.
- B. Ensure all moneys collected are deposited in accordance with state law.

RESPONSE -- WE CONCUR.

- A. The Court Administrator's Office will work with the Montana Water Court to segregate duties with regard to collections and deposits. Additionally, we will establish and maintain a system of internal controls over collections and deposits that are in substantial compliance with the Montana Operations Manual.
- B. The Court Administrator's Office will work with the Montana Water Court to substantially comply with 17-6-105 by establishing procedures which provide for depositing of funds in a Bozeman bank approved by the state treasury bureau.

Recommendation #6

We recommend the branch follow statutory purchasing requirements by seeking competitive bids for purchases over \$5,000.

RESPONSE -- WE PARTIALLY DISAGREE.

Recommendation Part One - Montana Water Court -- The Judicial Branch is in compliance with purchasing requirements. A *Governmental Body* is defined in 18-4-123(11), MCA, and means, "... *judicial branch of this state*, including the board of regents and the *Montana university system*." (emphasis added).

Pursuant to 18-4-132(2), contracts between the Judicial Branch and Montana State University are not governed by Chapter 4:

"... but this chapter does not apply to either grants or contracts between the *state* and its political subdivisions or *other governments* ..." (emphasis added)

Recommendation Part two - Computer Equipment Purchases -- The Branch will review current purchasing procedure to insure compliance with statutory provisions.

Recommendation #7

- A. Accrue Judges' Retirement System expenditures as required by state policy.
- B. Distribute collections to the Judges' Retirement System on a timely basis.

RESPONSE -- WE CONCUR.

- A. The Judicial Branch will implement year-end policy changes so as to accrue estimated June expenditures for the Judges' Retirement System.
- B. The Judicial Branch has implemented policy changes which provide for timely distribution of money collected for the Judges' Retirement System.

Recommendation #8

We recommend the branch accurately record expenditures consistent with state policy and, if necessary, seek training and assistance.

RESPONSE -- WE CONCUR.

The Clerk of the Supreme Court is elected and administers the budget for that office. In order to free up consulting/professional services money, the clerks office sought direction from the AOC accounting staff. The abatement decisions identified in the audit were made by the Clerk of the Supreme Court to the accounting staff in writing, based upon the understanding it was a necessary procedure for year end accounting purposes. The information given was incorrect and should have involved an adjustment using budget documents. The audit clearly indicated that the original expenses were recorded on SBAS correctly. Audit recommendations regarding this matter will be shared with the Clerk of the Supreme Court. When requested by the Clerk of the Supreme Court, we will work with that office to insure that expenditures are recorded in compliance with state accounting policy.

Abatement decisions for the balance of the Judicial Branch will be made in compliance with state accounting policy.

Recommendation #9

We recommend the branch seek legislation allocating additional revenue to ensure sufficient contributions are made to the Judges' Retirement System as required by state law.

RESPONSE -- WE CONCUR.

Legislation should be passed which provides funding of the Judges' Retirement System on an actuarial sound basis. It is our understanding that Public Employees Retirement System will be introducing legislation to accomplish this goal. We will monitor the progress of this legislation and provide assistance when needed.

Recommendation #10.

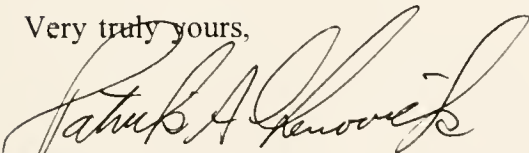
We recommend the branch record the accrual and use of leave time for the Water Court Judge.

RESPONSE -- WE DISAGREE.

Pursuant to 3-7-221, the Chief Water Judge is appointed by the Chief Justice of the Montana Supreme Court as provided by Title 3, Chapter 1, Part 10. The Chief Water Judge's qualifications, salary, retirement benefits, expense allowance and jurisdiction as defined in 3-7-223, 224, MCA is identical to a district judge. In addition, the Chief Water Judge may, at the discretion of the chief justice of the Montana Supreme Court, also serve as water judge for one of the water divisions per 3-7-224,(1) MCA, and has the same powers as a district judge per 3-7-224,(3) MCA. In 3-7-201, a water division judge is defined as "a district judge or retired district judge". Pursuant to the above, we believe that the Chief Water Judge should be considered, for purposes of sick and vacation leave, as a district judge.

We are available to answer any questions or provide any further information that you or the Legislative Audit Committee may require.

Very truly yours,



Patrick A. Chenovick
Court Administrator

